

SENATE BILL 946

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By: **Senator McFadden**

Introduced and read first time: February 18, 2010

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System – Deceased Retiree’s Retirement**
3 **Application – Retiree’s Mental Incapacity**

4 FOR the purpose of requiring a medical board for the State Retirement and Pension
5 System to authenticate certain applications by certain surviving spouses of
6 certain retirees; authorizing certain surviving spouses of certain retirees to
7 submit certain applications to the Board of Trustees of the State Retirement
8 and Pension System for a return of certain employee contributions plus interest;
9 requiring certain surviving spouses of certain retirees to include a certain
10 certification of mental incapacity with certain applications to the Board of
11 Trustees; requiring that a certain certification of mental incapacity be
12 completed by certain physicians and include certain information; providing that
13 the completion of a certain certification of mental incapacity in a certain
14 manner shall be considered to validate certain conclusions; requiring the Board
15 of Trustees to make certain payments to certain surviving spouses of certain
16 retirees if the medical board and Board of Trustees make certain verifications;
17 requiring the Board of Trustees to adopt certain regulations; providing for the
18 application of this Act; and generally relating to the review of a deceased
19 retiree’s retirement application by the medical board for the State Retirement
20 and Pension System.

21 BY repealing and reenacting, with amendments,
22 Article – State Personnel and Pensions
23 Section 21–126
24 Annotated Code of Maryland
25 (2009 Replacement Volume and 2009 Supplement)

26 BY adding to
27 Article – State Personnel and Pensions
28 Section 21–407
29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2009 Replacement Volume and 2009 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article – State Personnel and Pensions**

5 21–126.

6 (a) The Board of Trustees shall establish one or more medical boards.

7 (b) (1) Each medical board consists of three members and not more than
8 three alternates.

9 (2) Each medical board member and alternate shall be a physician
10 who is not eligible to be a member of a State system.

11 (3) The Board of Trustees shall appoint the medical board members
12 and any alternates.

13 (4) In the absence of a medical board member, an alternate may serve
14 on a medical board.

15 (c) Two members of a medical board are a quorum for the conduct of
16 business.

17 (d) A medical board shall:

18 (1) arrange for and approve all medical examinations required under
19 this Division II;

20 (2) investigate all essential certificates and statements by or on behalf
21 of a member concerning the application of the member for disability retirement; [and]

22 **(3) INVESTIGATE THE AUTHENTICITY OF ALL ESSENTIAL**
23 **CERTIFICATES AND STATEMENTS BY OR ON BEHALF OF A SURVIVING SPOUSE OF**
24 **A RETIREE OF THE SEVERAL SYSTEMS CONCERNING THE MENTAL CAPACITY OF**
25 **THE RETIREE AT THE TIME THE RETIREE COMPLETED THE RETIREE'S**
26 **APPLICATION FOR RETIREMENT; AND**

27 **[(3)] (4)** submit written reports to the Board of Trustees, with
28 conclusions and recommendations, on all matters that the Board of Trustees refers to
29 the medical board.

30 (e) The Board of Trustees may employ other physicians to report on special
31 cases.

1 21-407.

2 (A) THIS SECTION APPLIES ONLY TO A SURVIVING SPOUSE OF A
3 RETIREE OF THE SEVERAL SYSTEMS WHO AT THE TIME OF RETIREMENT
4 SELECTED THE BASIC ALLOWANCE UNDER THE STATE SYSTEM OF THE RETIREE.

5 (B) (1) A SURVIVING SPOUSE MAY COMPLETE AND SUBMIT AN
6 APPLICATION CREATED BY THE BOARD OF TRUSTEES TO THE BOARD OF
7 TRUSTEES FOR A RETURN OF THE RETIREE'S REMAINING EMPLOYEE
8 CONTRIBUTIONS PLUS INTEREST.

9 (2) ANY APPLICATION SUBMITTED TO THE BOARD OF TRUSTEES
10 UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

11 (I) INCLUDE A CERTIFICATION OF MENTAL INCAPACITY
12 DESCRIBED UNDER PARAGRAPH (3) OF THIS SUBSECTION; AND

13 (II) BE SUBMITTED WITHIN 6 MONTHS OF THE RETIREE'S
14 DEATH.

15 (3) (I) A SURVIVING SPOUSE SHALL INCLUDE WITH THE
16 COMPLETED APPLICATION TO THE BOARD OF TRUSTEES, A CERTIFICATION OF
17 MENTAL INCAPACITY COMPLETED BY TWO PHYSICIANS LICENSED TO PRACTICE
18 MEDICINE IN THE STATE.

19 (II) 1. THE CERTIFICATION OF MENTAL INCAPACITY
20 SHALL CERTIFY TO THE MEDICAL BOARD THAT THERE IS MORE THAN A
21 REASONABLE PROBABILITY TO CONCLUDE, BASED ON AN ANALYSIS OF THE
22 MEDICAL CONDITION OF THE RETIREE AND ANY ADDITIONAL EVIDENCE
23 SUPPLIED THROUGH THE SURVIVING SPOUSE, THAT THE RETIREE WAS
24 MENTALLY INCAPACITATED AT THE TIME THE RETIREE COMPLETED THE
25 RETIREE'S APPLICATION FOR RETIREMENT.

26 2. WHEN DETERMINING THE MENTAL INCAPACITY
27 OF THE RETIREE AT THE TIME THE RETIREE COMPLETED THE RETIREE'S
28 APPLICATION FOR RETIREMENT, THE PHYSICIANS MAY CONSIDER
29 CONTRIBUTING MEDICAL CONDITIONS, INCLUDING CONCUSSIONS,
30 PARANEOPLASTIC SYNDROME CONDITION, OR THE SYSTEMIC SPREAD OF
31 CANCER INTO OTHER ORGANS.

32 (III) THE COMPLETION OF A CERTIFICATION OF MENTAL
33 INCAPACITY UNDER THIS PARAGRAPH SHALL BE CONSIDERED TO DEEM THAT
34 THE RETIREE WAS SUFFERING FROM A MEDICAL CONDITION THAT RESULTED IN

1 THE RETIREE'S MENTAL INCAPACITY AT THE TIME THE RETIREE COMPLETED
2 THE RETIREE'S APPLICATION FOR RETIREMENT.

3 (C) THE BOARD OF TRUSTEES SHALL REFUND THE RETIREE'S
4 REMAINING EMPLOYEE CONTRIBUTIONS PLUS INTEREST TO THE SURVIVING
5 SPOUSE OF THE RETIREE ON VERIFICATION:

6 (1) OF THE AUTHENTICITY OF THE CERTIFICATION OF MENTAL
7 INCAPACITY SUBMITTED UNDER SUBSECTION (B)(3) OF THIS SECTION BY THE
8 MEDICAL BOARD; AND

9 (2) OF THE APPLICANT AS THE SURVIVING SPOUSE AND THE
10 APPLICATION SUBMITTED BY THE SURVIVING SPOUSE BY THE BOARD OF
11 TRUSTEES.

12 (D) THE BOARD OF TRUSTEES SHALL ADOPT REGULATIONS TO CARRY
13 OUT THIS SECTION.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
15 construed to apply retroactively and shall be applied to and interpreted to affect the
16 surviving spouse of any retiree who retired on or after May 1, 2006, from the
17 Employees' Retirement System or Employees' Pension System and died within 18
18 months of retiring.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 July 1, 2010.